

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN, NORTHERN DIVISION

LBUBS 2007-02 TOWNE CENTER ROAD LLC,
a Michigan Limited Liability Company,

Plaintiff,

vs.

Consolidated
Case No. 09-006061-CK-4

SAGINAW SH-MG, LLC, SAGINAW SH-KG, LLC,
SAGINAW SH-AGA, LLC, SAGINAW SH-JY, LLC,
SAGINAW SH-MK, LLC, SAGINAW SH-BS, LLC,
SAGINAW SH-BB, LLC, SAGINAW SH-FA, LLC
and SAGINAW SH-MGR, LLC, all Delaware Limited
Liability Companies

Defendants.

LBUBS 2007-C-2 TITTABAWAREE, LLC,
a Michigan Limited Liability Company,

Plaintiff,

vs.

Case No. 09-006064-CK-4
Hon. William A. Crane

SAGINAW HIX-MG, LLC, SAGINAW HIX-KG, LLC,
SAGINAW HIX-AGA, LLC, SAGINAW HIX-JY, LLC,
SAGINAW HIX-MK, LLC, SAGINAW HIS, BS, LLC,
SAGINAW HIX-BB, LLC, SAGINAW HIX-FA, LLC
and SAGINAW HIX-MGR, LLC, all Delaware Limited
Liability Companies,

Defendants.

Kenneth W. Kable P15635
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Attorney for Plaintiff

Attorney for Defendants

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants SAGINAW HIX-MG, LLC; SAGINAW HIX-KG, LLC; SAGINAW HIX-AGA, LLC; SAGINAW HIX-JY, LLC; SAGINAW HIX-MK, LLC; SAGINAW HIX-BS, LLC; SAGINAW HIX-BB, LLC; SAGINAW HIX-FA, LLC; AND, SAGINAW HIX-MGR, LLC (hereinafter "Holiday Inn Defendants") and SAGINAW SH-MG, LLC; SAGINAW SH-KG, LLC; SAGINAW SH-AGA, LLC; SAGINAW SH-JY, LLC; SAGINAW SH-MK, LLC; SAGINAW SH-BS, LLC; SAGINAW SH-BB, LLC; SAGINAW SH-FA, LLC; AND, SAGINAW SH-MGR, LLC (hereinafter "Sheraton Defendants") (the Holiday Inn Defendants and Sheraton Defendants are collectively referred to as "Defendants") by and through their attorneys Dickinson Wright PLLC, remove this action from the Circuit Court for the County of Saginaw, State of Michigan, where it is pending, to the United States District Court for the Eastern District of Michigan, Northern Division.

In support of its Notice of Removal, Defendants state as follows:

1. On or about August 5, 2009, Plaintiff filed in Saginaw County Circuit Court an action captioned *LBUBS 2007-02 Towne Center Road LLC v. Saginaw SH-MG, LLC, et al*, Case No. 09-006064-CK-4 (hereafter the "Sheraton Case"). On or about August 7, 2009 Defendants were notified of the existence of this action when Plaintiff supplied the two properties at issue herein with a copy of the Order entered by the Court on the same date appointing a Receiver. Plaintiffs later supplied counsel for Defendants with some of the remaining pleadings via electronic mail. Defendants have not consented to service in such manner, and have still not been properly served with any pleading herein.

2. On or about August 5, 2009, Plaintiff filed in Saginaw County Circuit Court an action captioned *LBUBS 2007-C-2 TITTABAWESEE, LLC v. SAGINAW HIX-MG, LLC, et al*,

Case No. 09-006061-CK-4 (hereafter the "Holiday Inn Case"). On or about August 7, 2009 Defendants were notified of the existence of this action when Plaintiff supplied the two properties at issue herein with a copy of the Order entered by the Court on the same date appointing a Receiver. Plaintiffs later supplied counsel for Defendants with some of the remaining pleadings via electronic mail. Defendants have not consented to service in such manner, and have still not been properly served with any pleading herein.

3. The Sheraton Case and the Holiday Inn Case were consolidated by Order dated August 7, 2009.

4. The Circuit Court for the County of Saginaw, State of Michigan, is in the Eastern District of Michigan, Northern Division.

5. The following pleadings, collectively attached as Exh. A constitute all process and pleadings which Defendant has been supplied with by Plaintiff in connection with this action:

- Verified Complaint (Holiday Inn Case)
- Verified Complaint (Sheraton Case)
- Ex Parte Motion for Appointment of Receiver and for Temporary Restraining Order; Brief in Support (Holiday Inn Case)
- Ex Parte Motion for Appointment of Receiver and for Temporary Restraining Order; Brief in Support (Sheraton Case)
- Order Setting Forth Duties and Obligations of Court Appointed Receiver (Holiday Inn Case)
- Order Setting Forth Duties and Obligations of Court Appointed Receiver (Sheraton Case)
- Order of Administrative Consolidation
- Motion to Freeze Bank Accounts and For Authority for Receiver to Utilize Funds
- Order Freezing Accounts at First State Bank of Saginaw and Setting Show Cause Hearing for their Release
- Appearance of Jennifer Hastings

- Brief in Opposition of Defendants Saginaw HIX-MG, et al to Ex Parte Application for Confirmation of Receiver and For Temporary Injunction
- Motion to Practice Pro Hac Vice (H. Mark Madnick); Brief, Notice of Hearing
- Motion to Practice Pro Hac Vice (Christopher S. Reeder); Brief, Notice of Hearing
- Supplemental Brief in Opposition of Defendants Saginaw HIX-MG, et al to Ex Parte Application for Confirmation of Receiver and For Temporary Injunction; Proof of Service

6. Plaintiff in the Sheraton Case is a Michigan Limited Liability Company. (*See,*

Sheraton Case Verified Complaint ¶ 1).

7. Plaintiff in the Holiday Inn Case is a Michigan Corporation. (*See* Holiday Inn Case Verified Complaint, ¶ 1).

8. Each of the named Defendants for both the Sheraton Case and the Holiday Inn Case is a Delaware corporation, with a principal place of business in the State of California.

9. The amount in controversy in this action exceeds \$75,000. Plaintiffs have seized control of accounts properly belonging to Defendant containing sums in excess of this amount. See, Order Freezing Accounts at First State Bank of Saginaw and Setting Show Cause Hearing for their Release.

10. This Notice of Removal is filed with the Court within 30 days after Plaintiffs improperly served Defendants with copies of the Verified Complaints in the above consolidated case, which occurred, at the earliest, by electronic mail on August 7, 2009, although Defendants dispute that such service was proper, and assert that they have not yet been properly served. This Notice of Removal is timely, in accordance with the provisions of 28 U.S.C. § 1446.

11. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because the parties in this matter are diverse and the amount in controversy exceeds \$75,000. This action therefore is removable pursuant to 28 U.S.C. § 1441.

12. Service and notice of filing of this Notice of Removal will be given to all parties and a true and correct copy of the Notice of Removal will be filed with the Clerk of the Court of the Saginaw County Circuit Court, Michigan as provided by law.

Respectfully submitted,

DICKINSON WRIGHT PLLC

/s/ Jennifer Hastings P55657

Jennifer Hastings P55657
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248-433-7200

Attorney for Defendants

Dated: August 18 2009

PROOF OF SERVICE

I hereby certify that on August 18, 2009, I electronically filed the foregoing instrument using the ECF system and caused to be served via U.S. Mail upon all parties to the above cause through the attorneys of record herein at their respective addresses as disclosed on the pleading.

DICKINSON WRIGHT PLLC

/s/ Jennifer Hastings P55657

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